

Assembly Bill No. 1658

CHAPTER 743

An act to amend Sections 25658, 25658.5, 25661, and 25662 of the Business and Professions Code, and to amend Sections 13004.1 and 14610.1 of the Vehicle Code, relating to alcoholic beverages.

[Approved by Governor October 14, 2007. Filed with
Secretary of State October 14, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1658, Sharon Runner. Alcoholic beverages: underage drinking.

(1) (A) Existing law provides that every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to a person under the age of 21 years is guilty of a misdemeanor punishable by a fine of \$1,000 and community service.

(B) Existing law also provides that any person under the age of 21 years who purchases any alcoholic beverage or who consumes any such beverage in any on-sale premises is guilty of a misdemeanor. Existing law provides, with respect to this misdemeanor, that a first violation is punishable by a fine of not more than \$250 and community service and for subsequent violations, a fine of \$500 and community service.

(C) Under the Alcoholic Beverage Control Act, it is a misdemeanor for any person to provide an alcoholic beverage to a person under the age of 21 years who consumes the beverage and thereby proximately causes great bodily injury or death, punishable by imprisonment in a county jail for six months to one year, a fine of \$1,000, or by both imprisonment and fine.

(D) Additionally, existing law provides that any on-sale licensee who knowingly permits a person under the age of 21 years to consume alcoholic beverages in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor. Existing law provides that the penalties imposed under this provision do not preclude prosecution under any other provision of law.

(E) This bill would provide that the penalties imposed under (A), (B), (C), and (D) above do not preclude the imposition of penalties under a specified provision of law.

(2) The Alcoholic Beverage Control Act provides that any person under the age of 21 years who attempts to purchase any alcoholic beverage from a licensee, or the licensee's agent or employee, is guilty of an infraction. The act further provides, with respect to this infraction, that a first violation is punishable by a fine of not more than \$100 and for subsequent violations, a fine of \$250 or community service.

This bill would increase the fine for a first violation to \$250 and to \$500 for subsequent violations. This bill would also provide that penalties imposed

under this provision do not preclude prosecution or the imposition of penalties under any other provision of law.

(3) The Alcoholic Beverage Control Act provides that any person under the age of 21 years who presents to a licensee any false identification for the purpose of ordering or purchasing or attempting to order or purchase alcoholic beverages is guilty of a misdemeanor, and subject to a fine of at least \$250, or specified community service, or both. Existing law provides that a 2nd or subsequent violation would be punishable by a fine of not more than \$500 or community service, as specified, or a combination of fine and community service, as the court deems just.

This bill would provide that penalties imposed under this provision do not preclude prosecution or the imposition of penalties under any other provision of law.

(4) The Alcoholic Beverage Control Act makes it a misdemeanor for a person under the age of 21 years to have in his or her possession any alcoholic beverage on any street or highway or in any public place or place open to the public. Existing law makes a first violation of that provision punishable by a fine of at least \$250 or between 24 and 32 hours of community service and a 2nd or subsequent violation a misdemeanor punishable by a fine of not more than \$500, 36 to 48 hours of community service, and provides that any grant of probation shall include the fine and not less than 50 hours of community service.

This bill would provide that penalties imposed under this provision do not preclude prosecution or the imposition of penalties under any other provision of law.

(5) Existing law prescribes certain unlawful acts relating to the use of identification cards and driver's licenses issued by the Department of Motor Vehicles. Existing law specifically prohibits the manufacture or sale of an identification document of a size and form substantially similar to the identification cards or the driver's licenses issued by the department. A violation of these prohibitions is a misdemeanor punishable by a fine of not less than \$500.

This bill would provide that a violation of these provisions is punishable by a fine of \$1,000 and community service.

(6) By changing the penalties for existing crimes, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 25658 of the Business and Professions Code is amended to read:

25658. (a) Except as otherwise provided in subdivision (c), every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.

(b) Any person under the age of 21 years who purchases any alcoholic beverage, or any person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.

(c) Any person who violates subdivision (a) by purchasing any alcoholic beverage for, or furnishing, giving, or giving away any alcoholic beverage to, a person under the age of 21 years, and the person under the age of 21 years thereafter consumes the alcohol and thereby proximately causes great bodily injury or death to himself, herself, or any other person, is guilty of a misdemeanor.

(d) Any on-sale licensee who knowingly permits a person under the age of 21 years to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor.

(e) (1) Except as otherwise provided in paragraph (2) or (3), any person who violates this section shall be punished by a fine of two hundred fifty dollars (\$250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation of subdivision (b) shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(2) Except as provided in paragraph (3), any person who violates subdivision (a) by furnishing an alcoholic beverage, or causing an alcoholic beverage to be furnished, to a minor shall be punished by a fine of one thousand dollars (\$1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school.

(3) Any person who violates subdivision (c) shall be punished by imprisonment in a county jail for a minimum term of six months not to exceed one year, by a fine of one thousand dollars (\$1,000), or by both imprisonment and fine.

(f) Persons under the age of 21 years may be used by peace officers in the enforcement of this section to apprehend licensees, or employees or agents of licensees, who sell alcoholic beverages to minors. Notwithstanding

subdivision (b), any person under the age of 21 years who purchases or attempts to purchase any alcoholic beverage while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase an alcoholic beverage. Guidelines with respect to the use of persons under the age of 21 years as decoys shall be adopted and published by the department in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Law enforcement-initiated minor decoy programs in operation prior to the effective date of regulatory guidelines adopted by the department shall be authorized as long as the minor decoy displays to the seller of alcoholic beverages the appearance of a person under the age of 21 years. This subdivision shall not be construed to prevent the department from taking disciplinary action against a licensee who sells alcoholic beverages to a minor decoy prior to the department's final adoption of regulatory guidelines. After the completion of every minor decoy program performed under this subdivision, the law enforcement agency using the decoy shall notify licensees within 72 hours of the results of the program. When the use of a minor decoy results in the issuance of a citation, the notification required shall be given within 72 hours of the issuance of the citation. A law enforcement agency may comply with this requirement by leaving a written notice at the licensed premises addressed to the licensee, or by mailing a notice addressed to the licensee.

(g) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 272 of the Penal Code and Section 13202.5 of the Vehicle Code.

SEC. 2. Section 25658.5 of the Business and Professions Code is amended to read:

25658.5. (a) Any person under the age of 21 years who attempts to purchase any alcoholic beverage from a licensee, or the licensee's agent or employee, is guilty of an infraction and shall be punished by a fine of not more than two hundred fifty dollars (\$250), or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as determined by the court. A second or subsequent violation of this section shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service, as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(b) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 13202.5 of the Vehicle Code.

SEC. 3. Section 25661 of the Business and Professions Code is amended to read:

25661. (a) Any person under the age of 21 years who presents or offers to any licensee, his or her agent or employee, any written, printed, or photostatic evidence of age and identity which is false, fraudulent or not actually his or her own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his or her possession any false or fraudulent written, printed, or photostatic evidence of age and identity, is guilty of a misdemeanor and shall be punished by a fine of at least two hundred fifty dollars (\$250), no part of which shall be suspended; or the person shall be required to perform not less than 24 hours nor more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of fine and community service as determined by the court. A second or subsequent violation of this section shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service, as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(b) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 13202.5 of the Vehicle Code.

SEC. 4. Section 25662 of the Business and Professions Code is amended to read:

25662. (a) Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor and shall be punished by a fine of two hundred fifty dollars (\$250) or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school. A second or subsequent violation shall be punishable as a misdemeanor and the person shall be fined not more than five hundred dollars (\$500), or required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or her parent, responsible adult relative, or any other adult

designated by the parent or legal guardian, or in pursuance of his or her employment. That person shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view that is in the possession of, or provided to, a person under the age of 21 years at social gatherings, when those gatherings are open to the public, 10 or more persons under the age of 21 years are participating, persons under the age of 21 years are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants.

Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under the age of 21 years, and, with respect to alcoholic beverages in unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within that period, those beverages may be destroyed.

(c) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 13202.5 of the Vehicle Code.

SEC. 5. Section 13004.1 of the Vehicle Code is amended to read:

13004.1. (a) No person shall manufacture or sell an identification document of a size and form substantially similar to the identification cards issued by the department.

(b) A violation of this section is a misdemeanor punishable by a fine of one thousand dollars (\$1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school.

SEC. 6. Section 14610.1 of the Vehicle Code is amended to read:

14610.1. (a) No person shall manufacture or sell an identification document of a size and form substantially similar to the drivers' licenses issued by the department.

(b) A violation of this section is a misdemeanor punishable by a fine of one thousand dollars (\$1,000), no part of which shall be suspended, and the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because

this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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